



August 30, 2023

Via ECF

Hon. Denny Chin
U.S. Court of Appeals for the Second Circuit
Thurgood Marshall Courthouse
40 Foley Square
New York, NY 10007

Re: Pitre v. City of New York, et al; 18-CV-5950 (DC)

Dear Judge Chin:

We represent the Plaintiff in the above-referenced matter. I write in response to Defendants' counsel, Lauren Silver's letter filed in the docket of this matter earlier today, and to request a 1-day extension of the parties' deadline to file their joint proposed Jury Instructions and Verdict sheet.

Plaintiff's counsel was away on bereavement leave from 8/11/23 to 8/18/23, then was on a long-scheduled vacation from 8/21/23 until when I returned to the office yesterday on 8/29/23.

A previous short extension was granted pushing the deadline to today, because the undersigned did not anticipate such a woefully unacceptable and inaccurate draft of the proposed jury instructions. The draft proposed verdict sheet is also objectionable for Plaintiff. Accordingly, Plaintiff sought another short extension from Defense Counsel, Ms. Silver, because it became apparent once I was able to finally review them closely, that the drafts sent to the undersigned on August 11, 2023 were more than mildly objectionable, particularly the draft proposed Jury Instructions, as they misstated crucial aspects of this case.

I informed Ms. Silver that this extension was warranted because given the many prejudicial mischaracterizations regarding the facts in the record, Plaintiff's claims and the applicable law contained in Ms. Singer's draft, it was unreasonable to expect that I could complete all the revisions of these three documents in one day. Ms. Singer refused to join to this short extension request. Ms. Singer adamantly insisted that I send her my revised drafts by 2:00 PM earlier today, an impossible task while I was working non-stop on revising and correcting the errors contained about the alleged facts, the plaintiff's claims in this case as well as the applicable law.

Plaintiff's counsel offered to discuss these issues over the phone, but Ms. Silver did not respond to that request. Ms. Silver began unilaterally filing documents to the docket of this case, including her draft proposed verdict sheet and jury instructions, without Plaintiff's consent and in direct contravention of orders of this court instructing the parties to file joint drafts of these documents.

Ms. Silver informed the undersigned via email that she was leaving the office at around 5:45 PM, when I was still working feverishly to correct all of the misleading portions of her draft proposed jury instructions. I have been on this case as Plaintiff's counsel for years, while Ms. Singer only appeared for Defendants, less than three weeks ago, the same day I went out on bereavement leave (due to the untimely passing of my closest friend of over 30 years), so it is understandable that she would not yet be up to speed on the depth of claims and facts in the record of this case. I asked her via email if one of the four other attorneys in her office (at least two of whom been working on this case longer) could keep working after she left the office to review my proposed revisions. That request received no response.

In light of the unilateral submissions by Ms. Silver, Plaintiff has completed and filed his revised proposed jury instructions earlier tonight. Accordingly, it should be more than possible for the parties to file the remaining submissions, i.e. the *joint* proposed verdict sheet and the *joint* proposed jury instructions for the parties by tomorrow. Therefore, Plaintiff asserts that there is good cause for Your Honor to grant this one-day extension.

Thank you for your consideration and attention in this matter.

Respectfully submitted,

DEREK SMITH LAW GROUP, PLLC
Attorneys for Claimant

A handwritten signature in blue ink, appearing to read 'Seamus P. Barrett', is positioned above the printed name and address.

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CC: to all parties via ECF